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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/776,936

12/22/1998

Scott Miller

BAYER-0006-P01

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02/03/2012

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.

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EXAMINER

KUMAR, SHAIENDRA

ART UNIT

PAPER NUMBER

1621

NOTIFICATION DATE

DELIVERY MODE

02/03/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

DETAILED ACTION

This office action is in response to applicants' communication filed on 12/13/11.

Claims 1, 3-14, 16-19, 21-39 are pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 36 and 39 are again rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 36 and 39 lack adequate written description for the claimed solvate. Applicants' arguments were fully considered and were not found convincing. Applicants allege that converting base urea compounds to solvate form is conventional in the art and well known to one of ordinary skill in the art, and cite some old patents, wherein they cite certain paragraph suggesting that preferred salt forms are capable of forming hydrates and solvates. The examiner would like to point out that each case has to be examined on its own merit. None of the patents that Applicants are citing are claiming hydrates or solvates. They are mostly claiming salts. As explained in the previous office action, solvate formation is not easy as applicants are describing. Applicants further point out that since solvate formation is routine to one of ordinary skill in the art, they

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believe that they are in possession of the solvate. The examiner disagrees. Not only applicants are not in possession of the solvate, from the instant specification, it appears that applicants have no intention of claiming solvate because they have not mentioned the word solvate not even once and no solvate has been made in the examples.

Applicants' arguments that since compounds and solvents are embodied in the instant specification, solvates are automatically known. Solvate chemistry is not as simple as applicants are describing. As evidenced by West and Braga references cited in the previous action, solvate formation is a tedious process. Thus it is clear that claims 36 and 39 lack adequate written description for the claimed solvate.

Claims 1, 3-14, 16-19, 21-35, 37 and 38 are allowable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAILENDRA KUMAR whose telephone number is (571)272-0640. The examiner can normally be reached on Mon-Fri/5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sullivan Daniel can be reached on (571)272-0779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Kumar
1/30/12

/SHAILENDRA KUMAR/
Primary Examiner, Art Unit 1621